

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 10-cv-02132-CMA-KLM

ANN MARIE MILLER,

Plaintiff ,

v.

JENNIFER ANN KELLEY,

Defendant.

**ORDER ADOPTING AND AFFIRMING NOVEMBER 15, 2010 RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This matter is before the Court on the parties' Combined Motion to Dismiss or Transfer (Doc. # 10), filed September 28, 2010. The motion was referred to Magistrate Judge Kristen L. Mix for a Recommendation by memorandum (Doc. # 11) on September 29, 2010. Magistrate Judge Mix issued a Recommendation on November 12, 2010, (Doc. # 22) the above-referenced motion be granted in part. (Recommendation at 1.) The Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b).

The Recommendation advised the parties that specific written objections were due within 14 days after being served with a copy of the Recommendation. (Recommendation at 19.) Despite this advisement, no objections to the Magistrate Judge's Recommendation were filed by either party.

"In the absence of timely objection, the district court may review a magistrate. . . [judge's] report under any standard it deems appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[it does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings]").

Applying this standard, I am satisfied that the Recommendation of Magistrate Judge Mix is sound and that there is no clear error on the face of the record. See Fed. R. Civ. P. 72(a). I agree that the above-referenced motion to dismiss or transfer should be granted in part, as set forth in the Magistrate Judge's Recommendation. Accordingly, it is hereby

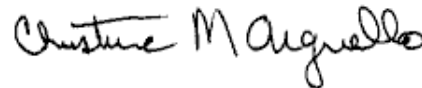
ORDERED that the Recommendation of United States Magistrate Judge Kristen L. Mix (Doc. # 22), filed November 12, 2010, is AFFIRMED and ADOPTED.

In accordance therewith, it is

FURTHER ORDERED that the parties' Combined Motion to Dismiss or Transfer is GRANTED in part to the extent that this case be TRANSFERRED to the United States District Court for the Western District of Virginia.

DATED: December 08, 2010

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge